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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

	:	Civil Action No: 08-1539
	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	
	:	
	:	
-against-	:	
	:	
ROBERT DURANT, ROBERT JOHNSON,	:	
LORI CAPORICCI, JAMES BENNETT,	:	
TYDE, INC., and BEARCAT FINANCIAL	:	
SERVICES, INC.,	:	
	:	
Defendants.	:	

DEFENDANTS' JAMES BENNETT AND BEARCAT FINANCIAL SERVICES, INC.,
MOTION FOR LEAVE TO SEAL EXHIBIT "F" TO THE DEFENDANTS' JAMES
BENNETT AND BEARCAT FINANCIAL SERVICES, INC. MEMORANDUM OF LAW
IN OPPOSITION TO PLAINTIFF'S MOTION FOR MONETARY RELIEF AGAINST
DEFENDANTS JAMES BENNETT AND BEARCAT
FINANCIAL SERVICES (DK# 45-6)

COME NOW, Defendants, James Bennett ("Mr. Bennett") and Bearcat Financial Services, Inc. ("Bearcat," together with Mr. Bennett, "Defendants"), by and through their undersigned attorney, and respectfully requests entry of an Order sealing the Mutual Settlement and Release Agreement filed as Exhibit "F" to the *Defendants' Memorandum of Law in Opposition to Plaintiff's Motion for Monetary Relief Against Defendants James Bennett and*

Bearcat Financial Services (ECF 45-6). A copy of the Mutual Settlement and Release Agreement is attached hereto and incorporated by reference as Exhibit “A.” In support hereof, Defendants state as follows:

1. On May 4, 2012, Defendants filed and served their Memorandum of Law in Opposition to Plaintiff’s Motion for Monetary Relief Against Defendants James Bennett and Bearcat Financial Services (ECF 45)(“Memo in Opposition”).

2. Defendants attached a Mutual Settlement and Release Agreement between and among Defendants, Great American Insurance Companies, Vigilant Insurance Companies, and Continental Insurance Companies to the Memo in Opposition (ECF 45-6)(“Settlement”) to show the amount of money that was paid out by Defendants as a result of the allegations in that underlying Complaint.

3. However, Paragraph 7 of the Settlement states:

Confidentiality of Agreement. This Agreement and the terms herein shall be deemed and treated confidential and not to be disclosed to any third party unless authorized by law. This confidentiality agreement does not apply to underwriters, regulators and government agencies.

4. Although by the express terms of the Confidentiality of Agreement section it would appear to be proper to disclose same to the Plaintiff, once the document was filed it becomes a public record and then, becomes subject to the provision regarding disclosure to third parties.

5. The purpose of the attachment of the Settlement is merely to show that sums were paid out as a result of the allegations in that underlying Complaint. As such, it would be proper to seal the document.

6. The Settlement is confidential through its express provision and agreement by the parties thereto.

7. In addition, disclosure will result in very serious injury.

8. As such, good cause exists and sealing of the Settlement is proper. *Department of Economic Development v. Arthur Andersen & Co.* (U.S.A.), 924 F.Supp. 449, 487 (S.D.N.Y. 1996).

WHEREFORE, Defendants, James Bennett and Bearcat Financial Services, Inc., respectfully request this Honorable Court seal the Mutual Settlement and Release Agreement that was filed under Docket #45-6, and grant such other relief as may be proper and just.

STATEMENT OF COUNSEL CERTIFYING COMPLIANCE WITH MEET AND CONFER BEFORE THE FILING OF THIS MOTION PER LOCAL RULE 37.3

Counsel for the Defendants hereby files this statement certifying that on this date I have conferred with opposing counsel for the Plaintiff, Securities and Exchange Commission regarding the filing of this Motion and Plaintiff, vis- a-vis Jack Kaufman, has no objections and consents to an Order from this Honorable Court granting this Motion identified above.

/s/ Robert D. Eckard

Robert D. Eckard

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 22, 2012, I electronically filed the foregoing with the Clerk of Court by using CM/ECF system. I also certify that the foregoing document is being served this day on all counsel of record on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized or do not receive electronically Notices of Electronic by U.S. Mail and Email at the addresses listed below.

**LAW OFFICE OF ROBERT ECKARD
& ASSOCIATES, P.A.**

/s/ Robert D. Eckard

☐ **Robert D. Eckard, Esquire (FBN: 0162655)**

☐ **Joelle Fisher, Esquire (FBN: 48204)**

***Pro hac* status pending**

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SERVICE LIST

SECURITIES AND EXCHANGE COMMISSION v. ROBERT DURANT, ROBERT
JOHNSON, LORI CAPORICCI, JAMES BENNETT, TYDE, INC., and BEARCAT
FINANCIAL SERVICES, INC.

Civil Action No. 1:08-cv-01539-JG-RML

United States District Court For The Eastern District Of New York

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